

ORIGIN

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

**LEOCADIO MEDINA BORREGO,
Plaintiff.**

V.

**CAROLYN W. COLVIN,
COMMISSIONER OF THE
SOCIAL SECURITY ADMINISTRATION,
Defendant.**

Civil Action No. 3:13-CV-939-N (BF)

CLERK, U.S. DISTRICT COURT
By _____
Deputy _____

Deputy

FINDINGS, CONCLUSIONS, AND RECOMMENDATION OF THE UNITED STATES MAGISTRATE JUDGE

Pursuant to 28 U.S.C. § 636(b), the District Court referred this case to United States Magistrate Judge Paul D. Stickney. Before the Court is Plaintiff Leocadio Medina Borrego’s (“Plaintiff”) Agreed Motion for Award of EAJA Fees and Brief in Support (doc. 21, “Motion for EAJA Fees”), filed on August 5, 2013. A court should award attorney’s fees under the Equal Access to Justice Act (“EAJA”) if: (1) the claimant is a prevailing party, (2) the position of the United States was not substantially justified, and (3) no special circumstances exist which would make an award unjust. 28 U.S.C. § 2412(d)(1)(A); *Sims v. Apfel*, 238 F.3d 597, 599-600 (5th Cir. 2001). The award of attorney’s fees must be reasonable. See 28 U.S.C. § 2412(b).

In this case, Defendant Carolyn W. Colvin (“Defendant”) is unopposed to Plaintiff’s Motion for EAJA Fees. Plaintiff was the prevailing party in this social security case and, thus, Plaintiff’s counsel seeks an award of \$2,640.16 in attorney’s fees pursuant to the EAJA. The fee request represents 14.50 hours of attorney work at a billing rate of \$182.08 per hour. (Pl.’s Mot. Statement of Patrick Wright.) Defendant does not contend that the position of the United States was substantially justified and this Court finds that there are no special circumstances which would make

an award unjust.

Recommendation

Accordingly, pursuant to the EAJA, the Court recommends that the District Court **GRANT** the Motion for EAJA Fees (doc. 21) and award Plaintiff a total sum of \$2,640.16 in attorney's fees. Furthermore, in being consistent with *Astrue v. Ratliff*, 560 U.S. 586 (2010), the Court recommends that payment of this award shall be made to Plaintiff, in care of Patrick Wright, and mailed to the Law Office of Patrick Wright, 10888 Shady Trail, Dallas, Texas 75220.

SO RECOMMENDED, September 23, 2013.



PAUL D. STICKNEY
UNITED STATES MAGISTRATE JUDGE

**INSTRUCTIONS FOR SERVICE AND
NOTICE OF RIGHT TO APPEAL/OBJECT**

The United States District Clerk shall serve a copy of these findings, conclusions, and recommendation on the parties. Pursuant to Title 28, United States Code, Section 636(b)(1), any party who desires to object to these findings, conclusions, and recommendation must serve and file written objections within fourteen days after service. A party filing objections must specifically identify those findings, conclusions, or recommendation to which objections are being made. The District Court need not consider frivolous, conclusory, or general objections. A party's failure to file such written objections to these proposed findings, conclusions, and recommendation shall bar that party from a *de novo* determination by the District Court. *See Thomas v. Arn*, 474 U.S. 140, 150 (1985). Additionally, any failure to file written objections to the proposed findings, conclusions, and recommendation within fourteen days after service shall bar the aggrieved party from appealing the factual findings and legal conclusions of the Magistrate Judge that are accepted by the District Court, except upon grounds of plain error. *Douglass v. United Services Auto. Ass'n*, 79 F.3d 1415, 1417 (5th Cir. 1996) (en banc).